

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

QUORDALIS V. SANDERS,

Plaintiff,

v.

Case No. 23-cv-1730-pp

JUDGE J. P. STADTMUELLER,

Defendant.

**ORDER DISMISSING CASE FOR FAILURE TO PAY FILING FEE AND
FAILURE TO COMPLY WITH COURT ORDER AND DENYING PLAINTIFF'S
MOTION TO APPOINT COUNSEL (DKT. NO. 3)**

On December 27, 2023, the plaintiff filed this lawsuit under 42 U.S.C. §1983. Dkt. No. 1. The lawsuit alleges that the defendant, a federal judge in this district, unlawfully denied the plaintiff permission to proceed without prepaying the filing fee in a different case. Id. at 1. The complaint is very hard to read, but it also appears to challenge the other judge's dismissal of a *habeas* petition filed by the plaintiff. Id. at 3.

On January 4, 2024, the court issued an order requiring the plaintiff to pay the \$405 filing fee in full by the end of the day on January 26, 2024. Dkt. No. 2 at 2. The order noted that the plaintiff had accumulated three "strikes"—that is, that he had had three previous cases or appeals dismissed as frivolous, malicious or for failure to state a claim—and that under 28 U.S.C. §1915(g) he could not proceed without prepaying the filing fee unless he demonstrated that he was in imminent danger of serious physical injury. Id. The court concluded that the plaintiff had not made that showing. Id. The order advised the plaintiff

that if the court did not receive the full \$405 filing fee by the end of the day on January 26, 2024, the court would dismiss the case. Id.

On January 16, 2024, the court received a document from the plaintiff in which he stated that he cannot afford to pay the full filing fee and he asked the court to appoint him a lawyer before making him pay the full filing fee. Dkt. No. 3. Again, the document is difficult to read, but it appears that the plaintiff argues that he means to litigate the question of whether he has accumulated three “strikes,” such that he cannot proceed without prepaying the filing fee. The plaintiff also submitted his trust account statement for December 2023. Dkt. No. 4. The plaintiff has not paid the filing fee, as required.

The court did not receive the plaintiff’s \$405 filing fee by the January 26, 2024 deadline. The fact that in this lawsuit, the plaintiff seeks to challenge whether he has three “strikes,” is not relevant. If the plaintiff believed that Judge Stadtmueller was wrong to conclude that he had three strikes, he should have asked Judge Stadtmueller to reconsider that decision, or appeal Judge Stadtmueller’s decision to the Seventh Circuit Court of Appeals. Instead, the plaintiff chose to file a new lawsuit. “The law requires any prisoner who brings a civil action to pay the full filing fee.” 28 U.S.C. §1915(b)(1). The court will order collection of the filing fee in accordance with 28 U.S.C. §1915(b).

The court **ORDERS** that this case is **DISMISSED WITHOUT PREJUDICE** because the plaintiff failed to pay the filing fee by the deadline set by the court and failed to comply with the court’s order. The clerk will enter judgment accordingly.

The court **DENIES** the plaintiff's motion to appoint counsel. Dkt. No. 2.

The court **ORDERS** that the agency that has custody of the plaintiff must collect from his institution trust account the **\$405** filing fee by collecting monthly payments from the plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to the plaintiff's trust account and forwarding payments to the clerk of court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. §1915(b)(2). The agency must clearly identify the payments by the case name and number. If the plaintiff transfers to another county, state or federal institution, the transferring institution must forward a copy of this order, along with the plaintiff's remaining balance, to the receiving institution.

The court will send a copy of this order to the Warden at Waupun Correctional Institution, where the plaintiff is housed.

Dated in Milwaukee, Wisconsin this 31st day of January, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge